

***United States Court of Appeals
for the Second Circuit***



EXHIBITS

74-140 ORIGINAL

In The
United States Court of Appeals

For The Second Circuit

FRANK BERNARDINI,

Appellee,

vs.

REDERI A/B SATURNUS,

Appellant,

and

INTERNATIONAL TERMINAL OPERATING CO., INC.,

Appellee.

*Appeal from the United States District Court for
the Southern District of New York.*

JOINT APPENDIX - EXHIBIT VOLUME

Volume III, Exhibits, pp. 753a - end

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PLAINTIFF'S EXHIBIT #1
REPORT OF DR. MAGLIATO

753a-754a

HENRY J. MAGLIATO, M.D.

105 E. 65TH STREET

NEW YORK, N. Y. 10021

UN 1-0055

November 21, 1969

U.S. Dept. of Labor
Bureau of Employees Compensation
321 W. 44 St. New York, N.Y.
Att: Mr. J. P. Conway
Ass't. Deputy Commissioner

Re: Frank Bernardini
Vs I. T. O.
2 Broadway, N.Y.C.
Inj: 10/28/69
Case # N.R.

Dear Mr. Conway:

On 11/17/69 I examined the above named patient in consultation at your request.

This 39 yr. old longshoreman states that while working on board ship he was attempting to go down into the hatch when he tripped on some pallets, falling forward and striking his right shoulder. He was treated by Dr. Tagliagambe the same day who diagnosed contusion and sprain and abrasions of the right shoulder. Xray of the right shoulder dated 10/28/69 was reported by him as negative. He remained under Dr. Tagliagambe's care until 11/12/69. During this period of time he received heat treatments to the right shoulder. He was advised to return to work on 11/5/69 but states that he was unable to do so because of persistent pain in the right shoulder.

Past History: No previous injury to the right shoulder.

A report in the chart by Dr. David Graubard dated 11/4/69 has been reviewed by me.

✓ Physical Examination: Physical examination of the right shoulder reveals swelling and tenderness over the right acromio-clavicular joint. No crepitation was elicited upon active or passive motions. He can fully elevate the shoulder but the last 10-15° cause pain. Internal rotation is restricted by about 25°. External rotation is restricted by about 10°. Both arms measure equally in circumference.

My impression at this time is that this patient is still suffering from a contusion of the right shoulder in the area of the acromio-clavicular joint. He would benefit by some further treatments to the shoulder. He may also require further xrays to rule out partial separation of the acromio-clavicular joint. He is disabled.

Henry J. Magliato
Henry J. Magliato, M.D.

PRINCIPAL DIMENSIONS

LENGTH OVER ALL 397' 7 1/2" HIGH
 LENGTH BETH. PP 387' 0" HIGH
 BREADTH MOALED 36' 0" HIGH
 DEPTH MOALED TO MAIN'D 34' 0" HIGH
 DEPTH MOALED TO SHDN 30' 0" HIGH
 DRAFT ON SUPPLY BEESBOARD 30' 0" HIGH

CLASS

LLOYDS, STEEL & 4000 L. STRENGTHENED
 FOR NAVIGATION IN ICE ELECTRICALLY WELDED
 SCANTLING SUITABLE FOR A SUPPLY MOALED
 DRAFT OF 30'-15"

MACHINERY

MAIN MACHINERY
 ONE DIESEL MOTOR FIVE CYLINDERS - 600 HP MAKE
 TYPE 362 TBF-119 SUPERCHARGED 5 CYLINDER
 DEPT, 3 CYL, TOTAL SHIP ON PROPEL
 LEVERARY 4100

AUXILIARY MACHINERY
 THREE DIESEL MOTORS TYPE BUSTON 6 VCBZ
 6 CYLINDERS, 6 CYCLES EACH DRIVING A DC
 GENERATOR OF 130 KW AT 220V

REFRIGERATING MACHINERY
 THREE FREON COMPRESSORS TYPE SABOR
 EACH DRIVEN BY A 42 HP ELECTRICAL MOTOR
 CAPACITY 915 600 CAL/H AT +30°C
 COOLING WATER TEMPERATURE

TONNAGE

	INTERNA.	NET	REGISTR.
GROSS TONNAGE	8790	4000	4070
NET TONNAGE	4395	2000	2035
UNDER DECK TONNAGE	3395	1000	1035

CARGO CAPACITIES

	CBM	SALES
NO. OF DECK	1437	1541
NO. OF HOLD	452	404
TOTAL UNDER DECK	2521	2347
NO. OF TWEENDECK	1112	1048
NO. OF TWEENDECK	968	948
NO. OF TWEENDECK OVER	587	593
NO. OF TWEENDECK UND	745	704
TOTAL TWEENDECK	4149	3907
TONNAGE WELLS STORAGE	731	860
TOTAL CARGO SPACE	6971	6454

REFRIGERATED CARGO CAPACITIES
 COMPARTMENT NO. 100 FEET
 NO. 1 HOLD F 709 24680
 NO. 2 HOLD A 470 15490
 TOTAL REFRIGERATED CARGO SPACE 1179 40170

ON SUPPLIES, FRESHWATER AND WATERBALLAST CAPACITIES

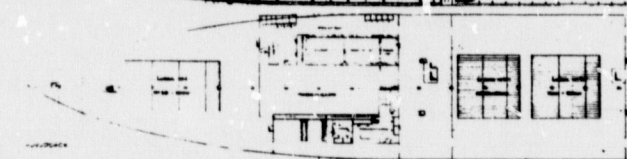
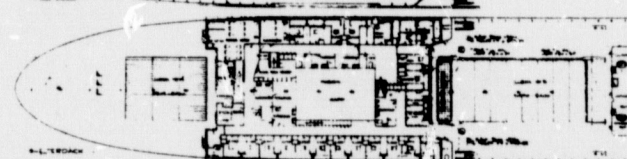
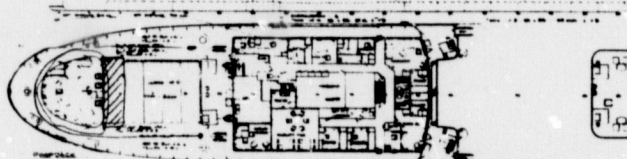
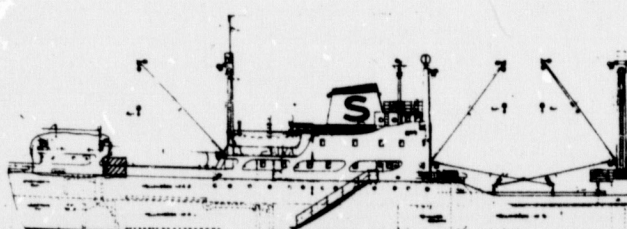
COMPARTMENT	NO.	SALT WATER	FRESH WATER	WATERBALLAST
NO. 1 TANK	143	143.8	143.8	
NO. 2 TANK	92	92.8	92.8	
NO. 3 TANK	80	80.8	80.8	
NO. 4 TANK	80	80.8	80.8	
NO. 5 TANK	80	80.8	80.8	
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DEPENDANTS
 EXHIBIT
 U.S. DEPT. COMMERCE
 BUREAU OF MARINE
 1957

M/S SVENSK

OWNER: STOCKHOLM REDERIABET
 BUILT BY: A/S FRODOGA V

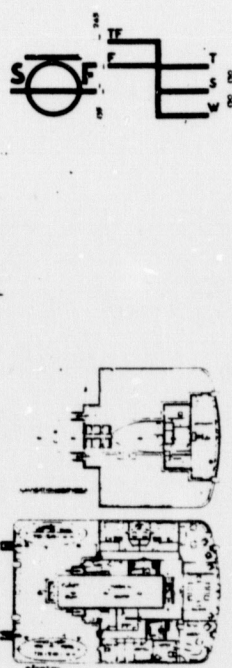
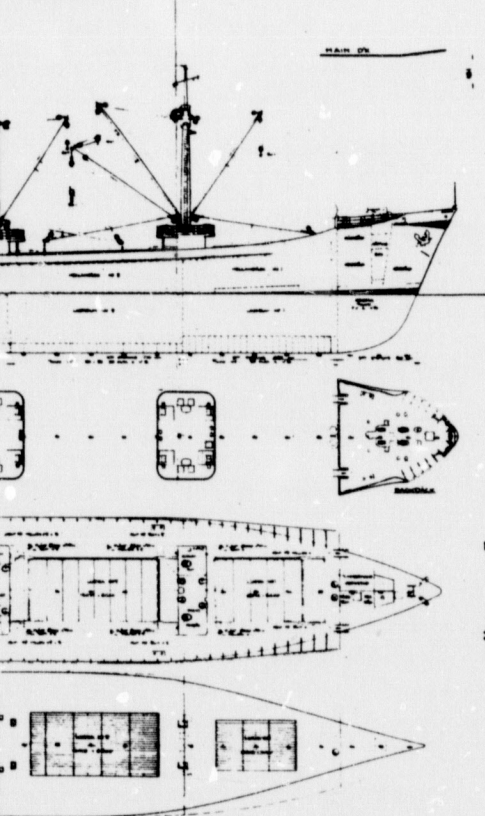
1957



PARTICULARS GIVEN ABOVE ARE BELIEVED TO BE CORRECT BUT NOT GUARANTEED

KSUND

LAG "SVEA", STOCKHOLM
 ARBY, STOCKHOLM



DEADWEIGHT SCALE					
DRAFT	D.W. TONS	DRAFT	D.W. TONS	DRAFT	D.W. TONS
IN	IN	IN	IN	IN	IN
FEET	FEET	FEET	FEET	FEET	FEET
0	0	0	0	0	0
1	1000	1	1000	1	1000
2	2000	2	2000	2	2000
3	3000	3	3000	3	3000
4	4000	4	4000	4	4000
5	5000	5	5000	5	5000
6	6000	6	6000	6	6000
7	7000	7	7000	7	7000
8	8000	8	8000	8	8000
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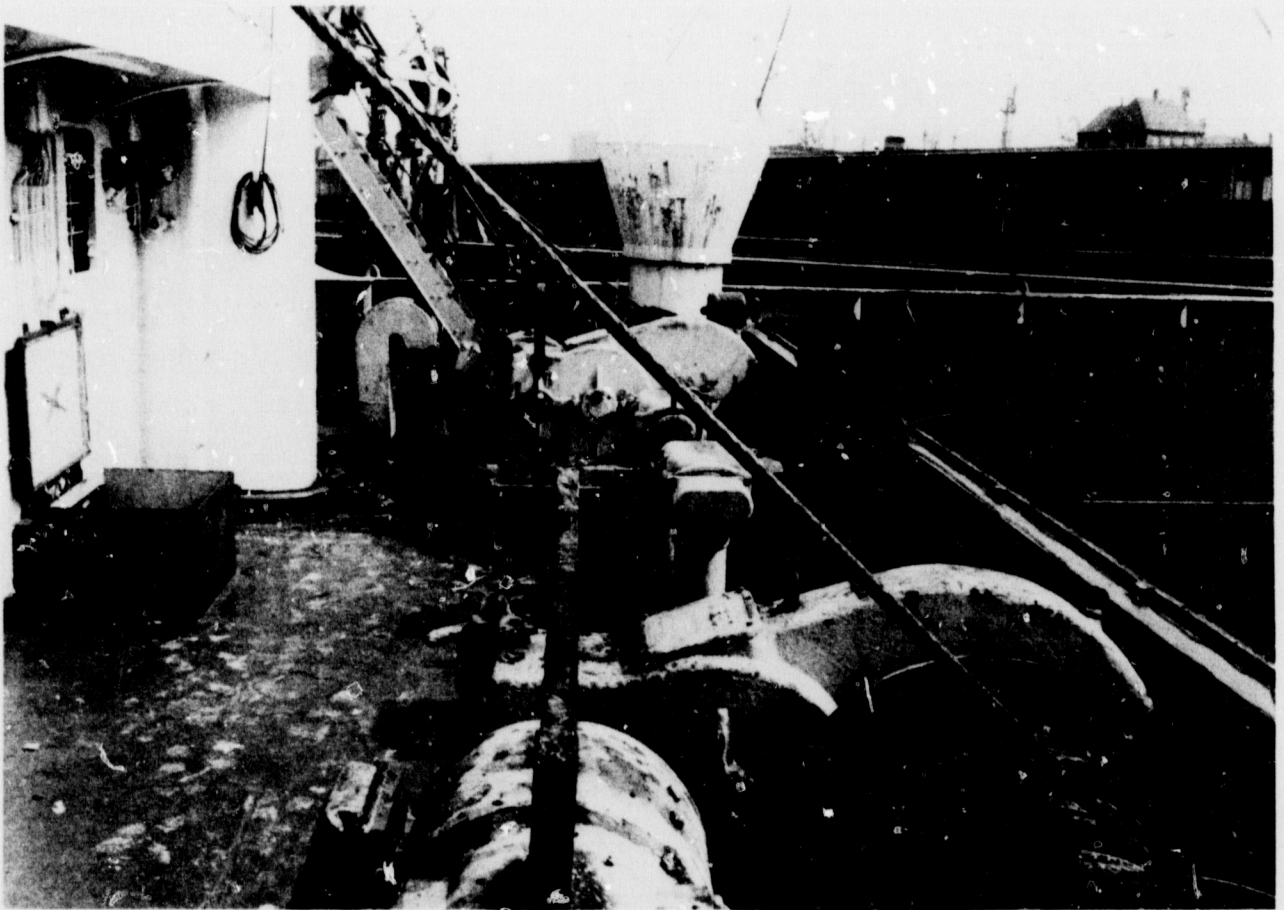
DEFENDANT'S EXHIBIT C - VESSEL'S CAPACITY PLAN

DEADWEIGHT INCL. BUNKERS, FRESH WATER PROVISIONS AND STORES 4365 TONS IN SALT WATER ON TURRETS/DECKBOARD
CAPACITY PLAN RITN 1-267-029 STOCKHOLM, 060797 PL

THIS PLAN MAY NOT BE USED AS BASIS FOR PARTIES OR CONTRACT WITHOUT OWNER'S AUTHORITY

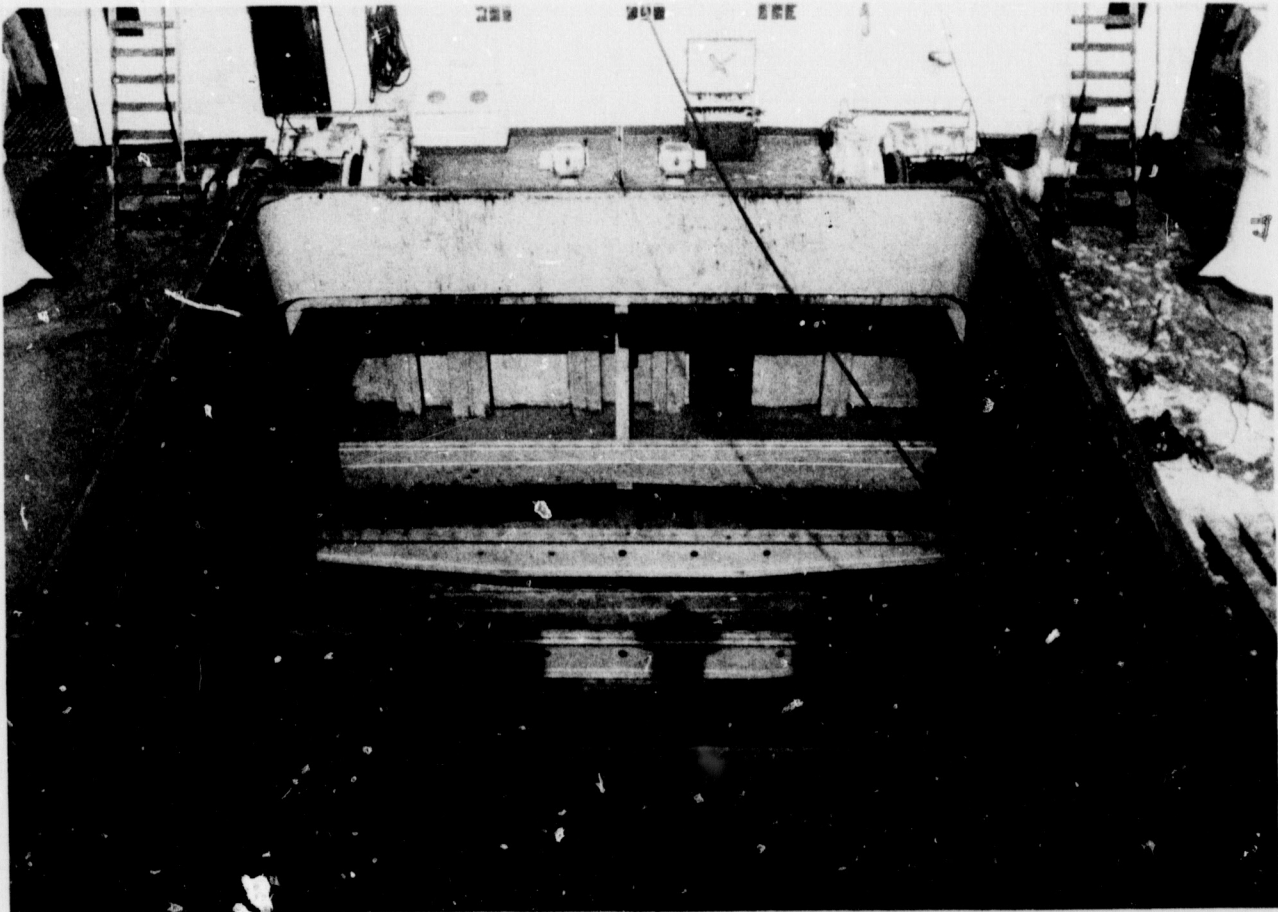
756a

DEFENDANT'S EXHIBIT D-1 - PHOTOGRAPH



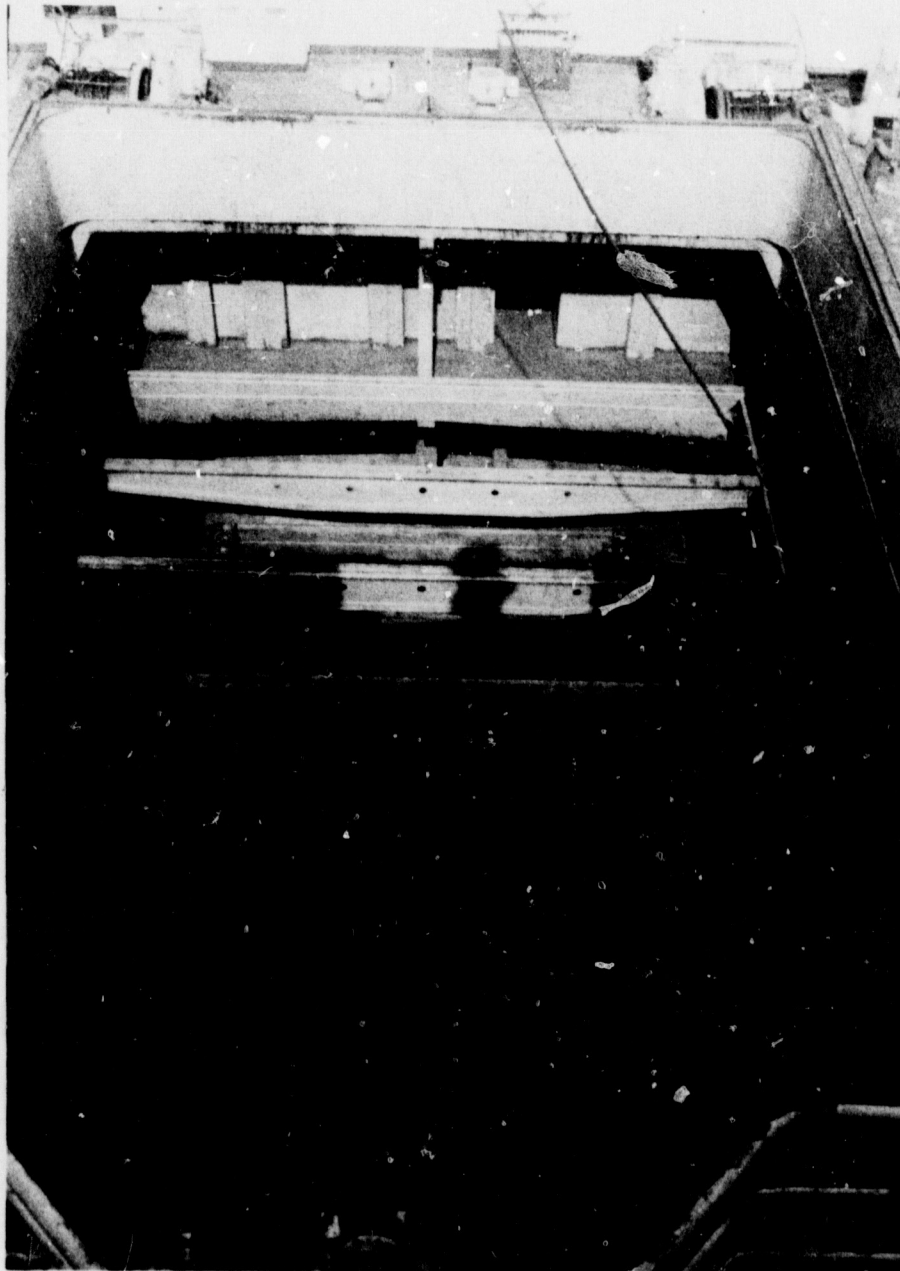
757a

DEFENDANT'S EXHIBIT D-2 - PHOTOGRAPH



758a

DEFENDANT'S EXHIBIT D-3 - PHOTOGRAPH



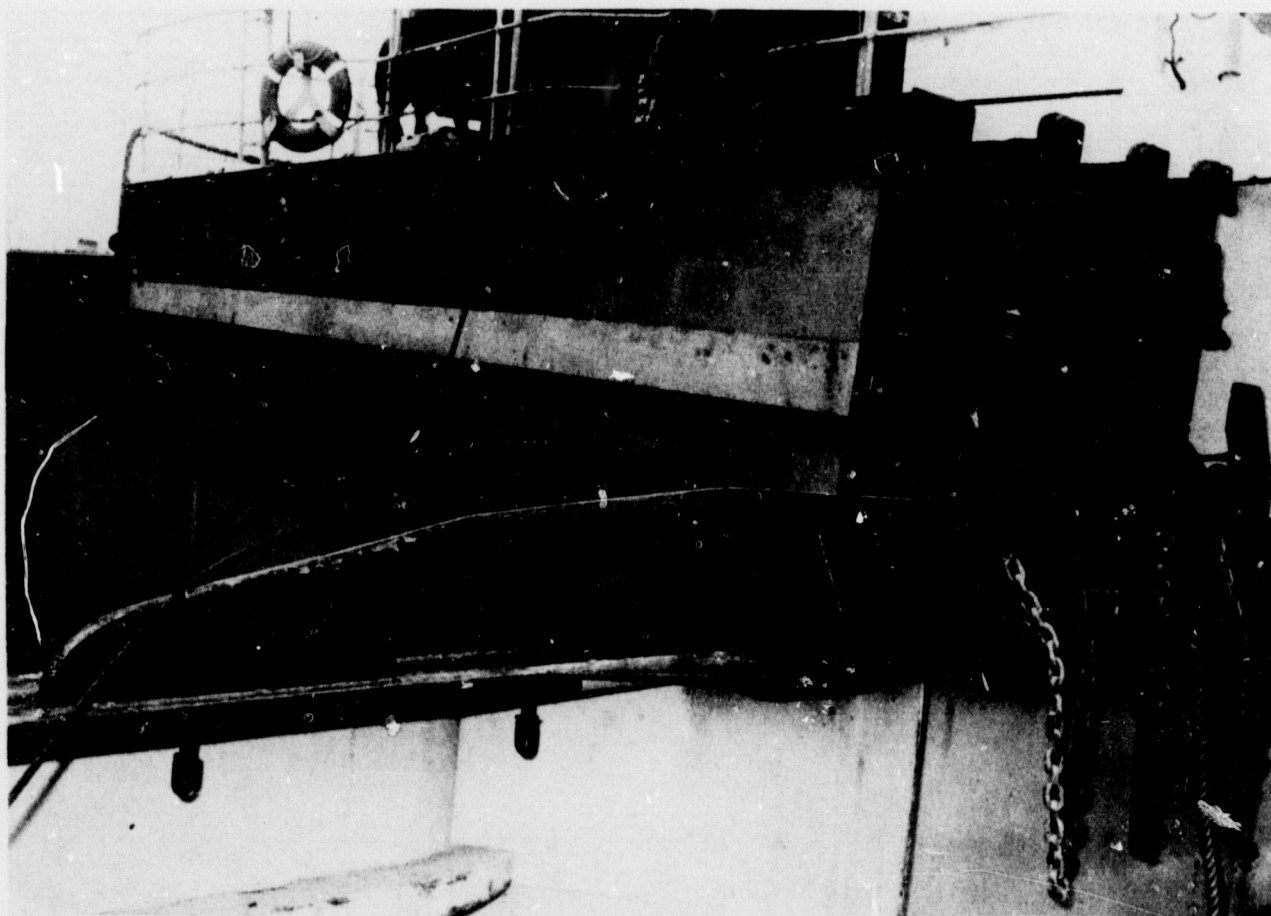
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DEFENDANT'S EXHIBIT D-4 - PHOTOGRAPH



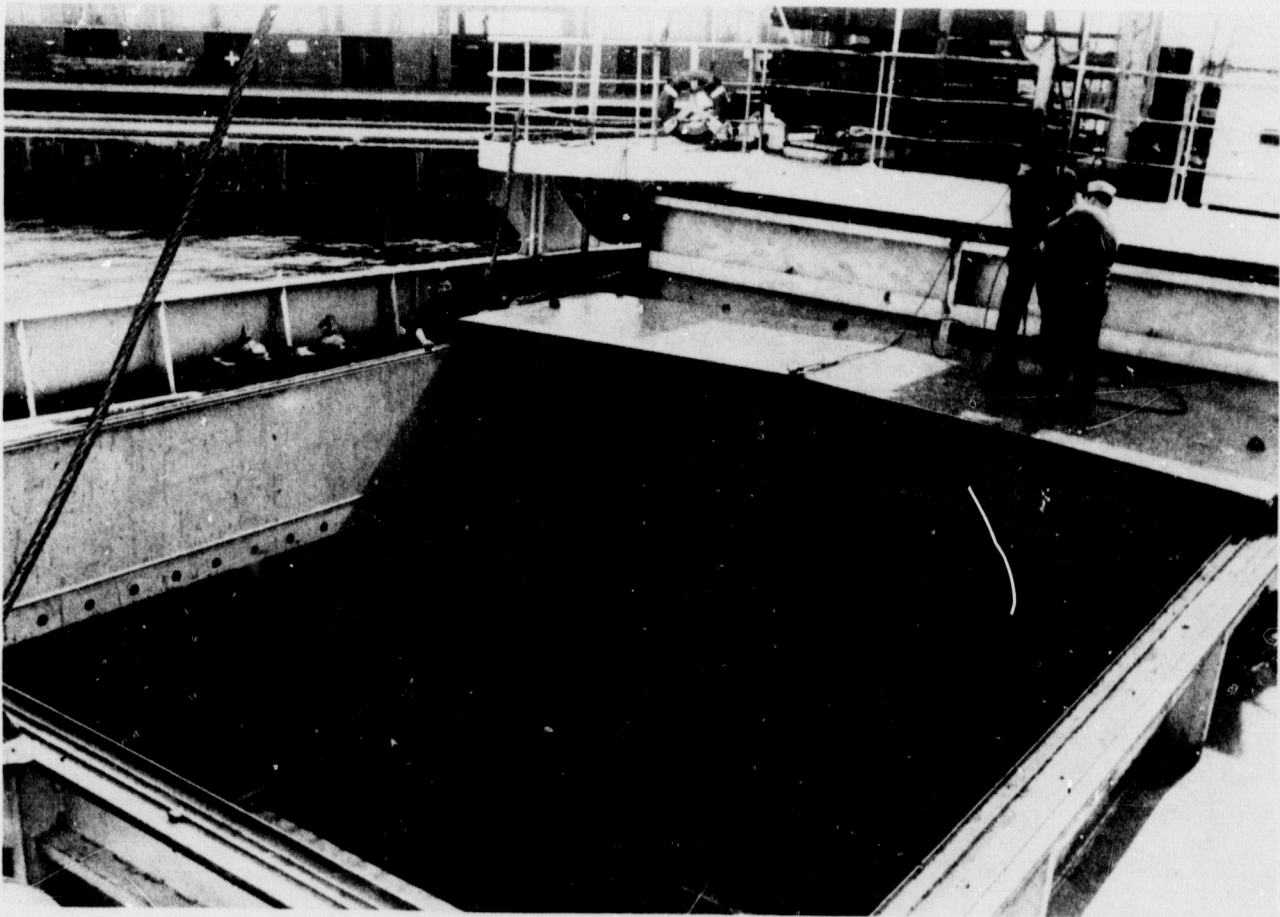
760a

DEFENDANT'S EXHIBIT D-5 - PHOTOGRAPH



761a

DEFENDANT'S EXHIBIT D-6 - PHOTOGRAPH



762a

DEFENDANT'S EXHIBIT D-7 - PHOTOGRAPH





DEFENDANT'S EXHIBIT G
TRANSLATION OF LOG ABSTRACT

Äre:	Nr
Insänt till	Datum
Kostnadstaxering	
Ifylles av rederiet	

Journalutdrag

Fartygets löp.nr
nr 28 år 1969

Fartyg
MS Svensksund

<input type="checkbox"/> På resa <input checked="" type="checkbox"/> Liggande i New York			
Utskrivningsdatum 29 oktober 1969	<input checked="" type="checkbox"/> Skeppsdagboken <input type="checkbox"/> Maskindagboken	<input checked="" type="checkbox"/> Lastad <input type="checkbox"/> Barlastad	Blad nr 1

Datum	Klockan	Avskrift av dagboken
28/10	0850	<p>Stuveriarbetare Frank Bernardini kommit ombord och uppsökt lucka no 4. Därstädes fanns ett uppbyggt gångbord mellan luck-karm och reling, bestående av 3 st "pallets", 2 av dessa ovanpå varandra, och vilket användes av luck-förmannen. Utan synbar anledning ramlade ovannämnda stuveriarbetare på detta gångbord, och klagade efteråt över svåra smärtor i vänster skulderparti.</p> <p>Åsyna vittne till det hela var överstyrman R Ståhl, för vilken det hela verkade ren teater.</p> <p>Accuransföreningen Skuld's representant på platsen varskodd.</p>

Rätt utdraget ur dagboken intygar

Befattning Överstyrman

Befattning Telegrafist

Befälhavare

OBS! Vid inträffat haveri eller i övrigt vid skada å fartyg, maskineri eller last, vid olyckshändelse, sjukdomsfall eller därmed jämförbar händelse, skall till rederiets Assuransavdelning fortast möjligt insändas rapport i 4 ex. å detta formulär. Särskild rapport skall utföras för varje sak.

CONTINUATION OF DEFENDANT'S EXHIBIT G
TRANSLATION OF LOG ABSTRACT

Oct. 28th - 8:50 a.m. Longshoreman Frank Bernardini came on board to hatch #4. At that hatch there was made walking board between the hatch coaming and the bulwark. The walking board was made up of 3 pallets, 2 of the pallets on top of each other, and it was used by the hatch boss. Apparently for no reason the longshoreman fell upon this walking board, and afterwards he made complaints about great pain in his left shoulder.

Eyewitness to everything was Chief Mate, R. Stahl, to whom the whole thing seemed to be mere acting.

Assuranceforeningen Skuld's agent was informed.

765a

DEFENDANT'S EXHIBIT H

PLAINTIFF'S NEW YORK SHIPPING ASSOCIATION EARNINGS RECORDS
NEW YORK SHIPPING ASSOCIATION, INC.
CENTRAL RECORDS BUREAU



80 BROAD STREET • NEW YORK 4, N. Y. • WHitehall 3-2740

June 27, 1973

Haight, Gardner, Poor & Havens, Esqs.
1 State Street Plaza
New York, N.Y.

Re: Frank Bernardini
S.S.#055-24-4465
vs
Rederi A/B Saturnus

Gentlemen:

In accordance with the Subpoena Duces Tecum served on the New York Shipping Association, Inc. Central Records Bureau in connection with the above entitled action pending before Justice Ward of the United States District Court for the Southern District of New York, we are attaching hereto statement of Mr. Bernardini's earnings.

Very truly yours,

Miss L. Triffiletti
Supervisor, Comp. Dept.

LT:mo
Attachment

CONTINUATION OF DEFENDANT'S EXHIBIT H
PLAINTIFF'S NEW YORK SHIPPING ASSOCIATION EARNINGS RECORDS

<u>QUARTER ENDED</u>	<u>AMOUNT</u>
----------------------	---------------

3/31/67	\$2100.12
6/30/67	1104.89
9/30/67	1631.67
12/31/67	2322.54
GAI Payments	None

3/31/68	2270.25
6/30/68	2418.79
9/30/68	2425.82
12/31/68	1738.30
GAI Payments	None

3/31/69	1819.00
6/30/69	2049.00
9/30/69	1867.40
12/31/69	802.23
GAI Payments	34.00

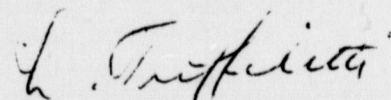
3/31/70	2134.22
6/30/70	1125.94
9/30/70	1349.62
12/31/70	1279.95
GAI Payments	2441.12

3/31/71	1175.30
6/30/71	729.10
9/30/71	1497.30
12/31/71	393.30
GAI Payments	2477.70

3/31/72	565.80
6/30/72	644.00
9/30/72	1700.79
12/31/72	1324.81
GAI Payments	3496.45

3/31/73	95.90
GAI Payments	774.22

This is to certify that the above records of earnings by Frank Bernardini for the periods indicated, is a true copy of the records of the New York Shipping Association, Inc. Central Records Bureau compiled on the basis of reports of earnings received by the Bureau from the Employer-Members of the Association.



Miss L. Triffiletti
Supervisor, Comp. Dept.

767a
CIVIL SUBPOENA CONTINUATION OF DEFENDANT'S EXHIBIT H
PLAINTIFF'S ~~NEW YORK SHIPPING ASSOCIATION EARNINGS RECORDS~~
United States District Court

FOR THE
SOUTHERN DISTRICT OF NEW YORK

TO
New York Shipping Association
Central Records Bureau
80 Broad Street
New York, New York 10004

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the Southern District of New York, at the courthouse, Foley Square in the City of New York, in said District, on the 26th day of June A. D. 1973, at 2:15 o'clock P. M. of said day (and bring with you all records of earnings and G.A.I. payment made to Frank Bernardini, S.S. No. 055-24-4465 from January 1, 1967 to date

then and there to testify on behalf of the Defendant
in a suit pending in said Court wherein Frank Bernardini is Plaintiff
and Rederi A/B Saturnus is Defendant.
June 25, 1973

Raymond F. Burghardt
~~Raymond F. Burghardt~~, Clerk.

HAIGHT, GARDNER, POOR & HAVENS
Attorney for Defendant

By B. EDWARDS, Deputy Clerk.

1 State Street Plaza, New York, N.Y.
Address

Note: Report at the JUDGMENT OFFICE, ROOM No. 601-G

Mr. Stearns
3 JUL 6 8 00

FPI ME-3 15 73 10M 9034

2804
Judge Ward

FORM APPROVED BUDGET BUREAU N

U.S. DEPARTMENT OF LABOR

THIRD-PARTY DEFENDANT'S EXHIBIT B
EMPLOYER'S FIRST REPORT OF ACCIDENT

EMPLOYER'S FIRST REPORT OF ACCIDENT OR OCCUPATIONAL ILLNESS

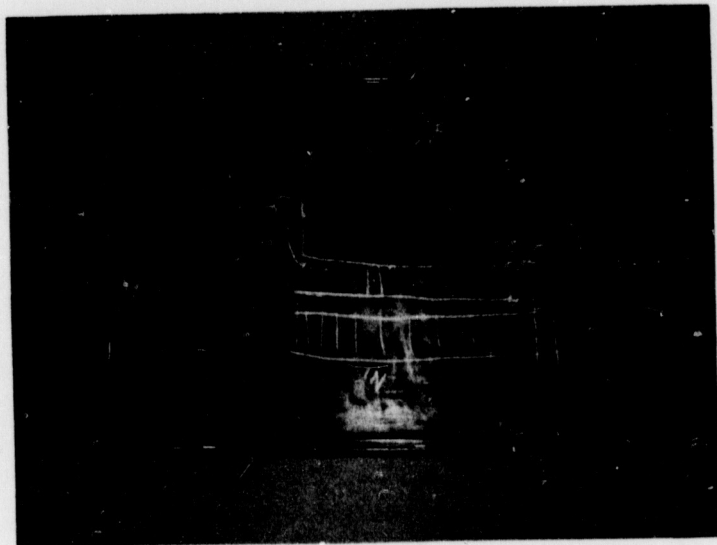
SEE INSTRUCTIONS ON REVERSE

LEAVE ITEMS 1 AND 2 BLANK

3. NAME OF INJURED EMPLOYEE (TYPE OR PRINT) → FRANK		MIDDLE INITIAL B		LAST NAME BERNARDINI		4. DATE OF INJURY (Month, day, year) TUES 10-28-69
5. EMPLOYEE'S ADDRESS (Number, street, city, State, zip code) 923 42ND STREET BKLYN						6. ACCIDENT IS BEING REPORTED UNDER THE FOLLOWING ACT (Check one, see instructions on reverse) <input checked="" type="checkbox"/> LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT <input type="checkbox"/> DEFENSE BASE ACT <input type="checkbox"/> NONAPPROPRIATED FUND INSTRUMENTALITIES ACT <input type="checkbox"/> OUTER CONTINENTAL SHELF LANDS ACT <input type="checkbox"/> DISTRICT OF COLUMBIA WORKMEN'S COMPENSATION ACT
7. SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	8. AGE OR DATE OF BIRTH 39	9. SOCIAL SECURITY NUMBER 055 24 4465				
10. ON DATE OF INJURY, GIVE a. HCJR BEGAN WORK 8 A.M.		b. HOUR OF ACCIDENT 8:45 A.M.		c. DID EMPLOYEE STOP WORK IMMEDIATELY? <input type="checkbox"/> YES <input type="checkbox"/> NO		
11. DID INJURY CAUSE LOSS OF TIME BEYOND DAY OR SHIFT OF ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO		12. DATE AND HOUR EMPLOYEE FIRST DID NOT RETURN TO WORK		13. DATE AND HOUR PAY STOPPED		
14. DATE AND HOUR EMPLOYEE RETURNED TO WORK		15. OCCUPATION (Job title, longshoreman, welder, etc.) LONGSHOREMAN		16. NUMBER OF YEARS IN THIS OCCUPATION 20		
17. INJURED WHILE DOING SUCH WORK? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (If "no" explain in Item 25.)		18. YEARS IN YOUR EMPLOY 10		19. NUMBER OF DAYS USUALLY WORKED PER WEEK VARIES		
21. WAGES OR EARNINGS (Include overtime, allowances, etc.) →		a. HOURLY RATE 1.25	b. DAILY RATE	c. WEEKLY	d. YEARLY	
22. EXACT PLACE WHERE ACCIDENT OCCURRED (See instructions on reverse) M/V SVENSKUND HATCH #4 21ST STREET BKLYN CODE 810						
23. NAME OF FOREMAN OR SUPERVISOR AT TIME OF ACCIDENT S. PELLECHIA				24. EARLIEST DATE FOREMAN OR EMPLOYER KNEW OF ACCIDENT TUES 10-28-69		
25. DESCRIBE IN FULL HOW THE ACCIDENT OCCURRED (Relate the events which resulted in the injury or occupational disease. Tell what the injured was doing at the time of the accident. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident.) MR. BERNARDINI STATES THAT WHILE WALKING ON DECK OF SHIP HE TRIPPED OVER PALLETS LYING ON DECK CAUSING HIM TO FALL DOWN						
26. NATURE OF INJURY (Name part of body affected—fractured left leg, bruised right thumb, etc. If there was a loss of part of the body, describe.) →		INJURY TO RIGHT SHOULDER				
27. IF YOU PROVIDED OR AUTHORIZED MEDICAL ATTENTION, GIVE DATE. IF NOT, EXPLAIN WHY TUES 10-28-69						28. DATE INSURANCE CARRIER NOTIFIED
29. NAME OF PHYSICIAN DR. TAGLIAGAMBE		30. ADDRESS (Number, street, city, State, zip code) 230 34TH STREET BKLYN				
31. NAME OF HOSPITAL		32. ADDRESS (Number, street, city, State, zip code)				
33. NAME OF INSURANCE CARRIER SELF-INSURED		34. ADDRESS (Number, street, city, State, zip code) 2 BWAY N.Y.C.				
35. NAME OF EMPLOYER (Individual or firm name) INTERNATIONAL TERMINAL OPERATIONS		36. ADDRESS OF REPORTING OFFICE (Number, street, city, State, zip code) 2 BWAY N.Y.C.				
37. NATURE OF EMPLOYER'S BUSINESS STEVEDORING		38. SIGNATURE OF PERSON AUTHORIZED TO SIGN FOR EMPLOYER [Signature]				
39. OFFICIAL TITLE OF PERSON SIGNING THIS REPORT SUPT.		40. DATE OF THIS REPORT TUES. 10-28-69				

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PHOTOGRAPH OF BLACKBOARD DIAGRAM



U.S. COURT OF APPEALS:SECOND CIRCUIT

Index No.

BERNARDINI,

Appellee,

against

Affidavit of Personal Service

SATURNUS,

Appellant.

STATE OF NEW YORK, COUNTY OF NEW YORK

ss.:

I, James Steele, being duly sworn,
deposes and says that deponent is not a party to the action, is over 18 years of age and resides at

250 West 146th Street, New York, New York

That on the 17th day of June 1974 at 160 Broadway, New York
801 2nd Avenue, New York

deponent served the annexed *Appellants' Appendix (13 vols.)* upon

Zimmerman & Zimmerman-Attorneys for Appellee Bernardini

Alexander, Ash, Schwartz & Cohen-Attorneys for Appellee Int'l. Terminal Operating Co.

the in this action by delivering a true copy thereof to said individual
personally. Deponent knew the person so served to be the person mentioned and described in said
papers as the Attorney(s) herein,

Sworn to before me, this 17th

day of June

19 74

James Steele
Print name beneath signature

JAMES STEELE

ROBERT T. BRIN

NOTARY PUBLIC, STATE OF NEW YORK

NO. 31 - 0418950

QUALIFIED IN NEW YORK COUNTY

COMMISSION EXPIRES MARCH 30, 1975

